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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS E. KEPKE,

Defendant.

Criminal No. 3:21-CR-00155-JD

UNITED STATES' MOTION FOR  
SEQUESTRATION ORDER

The United States of America respectfully moves the Court for a sequestration order excluding all witnesses from the trial, except when testifying, with one exception, and states as follows in support:

As a general rule witnesses are excluded from trial, except when testifying, so that they cannot hear other witnesses' testimony. *See* Fed. R. Evid. 615. Rule 615(a)-(d) notes several exceptions to this general rule, one of which applies to an individual the United States may call as witnesses at trial. Bruce Dubinsky, who may testify as an expert witness as set forth in the Notice filed on June 3, 2022 (Doc. # 45), should be excluded from any sequestration order pursuant to Rule 615(c). *See United States v. Ratfield*, 342 Fed. Appx. 510, 512-13 (11th Cir. 2009) (unpublished); *United States v. Rhynes*, 218 F.3d

1 310, 318 n.8 (4th Cir. 2000); *United States v. Lussier*, 929 F.2d 25, 29 (1st Cir. 1995) (stating that  
2 regardless of whether IRS agent was considered a “fact” or “expert” witness, he did not need to be  
3 sequestered because his testimony was based on, summarized, and was consistent with the evidence  
4 presented at trial); *United States v. Mohney*, 949 F.2d 1397, 1404-05 (6th Cir. 1991).

5 Accordingly, the United States respectfully requests an order excluding all witnesses from the  
6 trial, except when testifying, with the exception of Mr. Dubinsky, who should be excluded from the  
7 sequestration order and allowed to observe all portions of the trial.

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9 Respectfully submitted,

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